

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ATLAS STEAMSHIP COMPANY
NORTHWEST (SS DIANNA),

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 583

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of Atlas Steamship Company Northwest to a notice of civil penalty of \$100.00 for an alleged smoke emission violation; having come on regularly for hearing before the Pollution Control Hearings Board on the 23rd day of July, 1974, at Seattle, Washington; and appellant, Atlas Steamship Company Northwest, appearing through one of its employees, Thomas C. Albers and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board member present at the hearing being W. A. Gissberg; and the Board having reviewed the transcript of the testimony, exhibits,

1 records and files herein and having entered on the 13th day of August,
2 1974, its proposed Findings of Fact, Conclusions of Law and Order, and
3 the Board having served said proposed Findings, Conclusions and Order
4 upon all parties herein by certified mail, return receipt requested
5 and twenty days having elapsed from said service; and

6 The Board having received no exceptions to said proposed Findings,
7 Conclusions and Order; and the Board being fully advised in the
8 premises; now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
10 Findings of Fact, Conclusions of Law and Order, dated the 13th day of
11 August, 1974, and incorporated by this reference herein and attached
12 hereto as Exhibit A, are adopted and hereby entered as the Board's Final
13 Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 6th day of September, 1974.

15 POLLUTION CONTROL HEARINGS BOARD

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17 Walt Woodward
18 WALT WOODWARD, Chairman

19 W. A. Gissberg
20 W. A. GISSBERG, Member

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A formal hearing on the appeal of Atlas Steamship Company Northwest to a notice of civil penalty of \$100.00 for an alleged smoke emission violation came on before W. A. Gissberg, presiding officer, on July 23, 1974 in Seattle, Washington.

Appellant appeared by and through one of its employees, Thomas C. Albers; respondent appeared by and through its attorney, Keith D. McGoffin.

Having reviewed the transcript of the testimony and the exhibits

EXHIBIT A

and being fully advised, the Board makes the following

FINDINGS OF FACT

I.

On March 27, 1974, in King County, Washington, at Pier 86, the SS DIANNA emitted smoke from its ship's stack for six consecutive minutes, of a shade darker than No. 2 on the Ringelmann Chart, namely, a Ringelmann No. 5.

II.

The smoke emission was caused by virtue of "firing off a cold engine" and is a normal occurrence for ships under such circumstances.

III.

Section 9.03(a)(1) of respondent's Regulation I makes it unlawful to cause or allow the emission of an air contaminant darker in shade than No. 2 on the Ringelmann Chart for more than three minutes in any hour.

IV.

The Atlas Steamship Northwest Company and Atlas Steamship Company Northwest is one and the same and is the agent for the owner of the ship, SS DIANNA.

V.

Section 9.16 of respondent's Regulation I provides a method for excusing smoke emissions exceeding any of the limits otherwise established by respondent's Regulation I when such emissions are "a direct result of start-ups, . . .". Appellant did not attempt to utilize the provisions of that section by advising respondent of the ship's start-up and the other detail required to be reported by that section.

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

VI.

Any Conclusion of Law hereinafter deemed to be a Finding of Fact herewith is adopted as same.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

Appellant was in violation of Section 9.03(a)(1) of respondent's Regulation I.

II.

The civil penalty, being substantially less than the maximum allowable penalty of \$250.00, is reasonable.

III.

Any Finding of Fact herein which is deemed to be a Conclusion of Law herewith is adopted as same.

Therefore, the Pollution Control Hearings Board makes this

ORDER

The imposition of the civil penalty in the amount of \$100.00 is affirmed.

DONE at Lacey, Washington this 13th day of August, 1974.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

W. A. Gissberg
W. A. GISSBERG, Member

Chris Smith
CHRIS SMITH, Member

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER